IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY NINTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

and
THE HON'BLE SRI JUSTICE B.SESHASAYANA REDDY

WRIT PETITION No. 6700 of 2005

Between:

M/s. Anand Metallic & Power Pvt. Ltd. A Private Limited Company, having its Office at 5-9-208, Anand Complex, Chirag Ali lane, Abids Road, Hyderabad - 500 001, represented by its Managing Director Sri Pramod Kumar Agarwal

..... PETITIONER

AND

1. The District Collector, Mahaboobnagar District.
2. The Mandal Revenue Officer, Kothur Mandal, Mahaboobnagar District.
3. The Member Secretary, A.P. Pollution Control Board,
Paryvaran Bhavan, A-3, Industrial Estate, Sanathnagar, Hyderabad - 500 018.
4. The Environmental Engineer, A.P. Pollution Control Board, Hyderabad.
5. The Commissioner of Industries, Department of Industries, Chirag Ali
Lane, Nampally, Hyderabad.
6. The IPO, Department of Industries,
Jadcherla, Mahaboobnagar District.
7. The Assistant Divisional Engineer, A.P. TRANSCO, Shadnagar.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus to set-aside the impugned notice No. C1/1966/2005, dt. 25-3-2005 issued by the respondent by declaring it as illegal, arbitrary and unconstitutional and pass such other order or order/s as this Hon'ble Court may deem fit and proper in the

circumstances of the case

Counsel for the Petitioner: Mr. B.CHANDRASEN REDDY

Counsel for the Respondent Nos.3 &4: Mr.S.V.Bhatt

Counsel for Respondents, 1,2,5, &6: G.P. for Revenue

Counsel for Respondent No.7: -----

The Court made the following :

ORAL ORDER:

(per Honourable Sri Devinder Gupta, the Chief Justice)

On 22.3.2005, an order was passed by the Andhra Pradesh Pollution Control Board against the petitioner herein directing the petitioner to dismantle the unauthorized Second Rotary Kiln of 100 TPD, which is being under installation by the petitioner-industry immediately and report compliance. Copy of the order was sent to the Commissioner of Industries, Hyderabad, the District Collector, Mahaboobnagar District for information and necessary action, the JCEE, Z.O., Hyderabad, the SEE, Task Force and the Environmental Engineer. Pursuant to the said order, on 25.3.2005 notice was served upon the petitioner. The respondents gave 24 hours for dismantling the unauthorized structures pertaining to 2nd Rotary kiln. This notice was given under the Water (Prevention and Control of Pollution) Amendment Act, 1988 and the Air (Prevention and Control of Pollution) Amendment Act, 1987. Feeling aggrieved, this Writ Petition has been filed.

The grievance of the petitioner is that there is already consent given on 2.1.2004 for establishment of Sponge Iron plant and the unit has been established. Learned Standing Counsel for A.P. Pollution Control Board submits that though consent has been issued for establishment of the unit, but there is no consent for operation, which is required, and, moreover, without obtaining the consent for operation, the petitioner is operating the unit and the petitioner is also establishing another kiln, for which, there is no permission.

All the above questions are the questions, which have to be gone into in an appeal, which is provided against the order of the Respondent-Board. The petitioner must avail the remedy of preferring the appeal against the order passed by the respondent-Board herein under Section 31 of the Air (Prevention and Control of

Pollution) Act, 1981 within 30 days from the date of the order passed by the respondent-Board.

Considering the facts and circumstances of the case that there is consent granted by the respondent-Board on 2.1.2004 for setting up of Sponge Iron Plant, which, according to the respondents is only for one kiln, but, according to the learned counsel for the petitioner, the petitioner has a right for making further constructions of the unit up to the installed capacity, we are of the view that till appeal is heard and decided, there should be status quo as regards the construction, which has already been made by the petitioner, but, subject to the condition that the petitioner shall not operate any part of the Sponge Iron plant without obtaining consent for operation from the Respondent-Board, making it clear that, in case, the order is violated by the petitioner, it will be for the respondent-Board to take whatever steps possible to ensure that no production takes place in the petitioner-unit. There is still time for preferring the appeal, and, the appeal, if preferred by the petitioner within the period of limitation, will be heard and decided on merits in accordance with law.

The Writ Appeal is disposed of accordingly. No costs.

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DEVINDER GUPTA, C.J.

29.3.2005

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B.SESHASAYANA REDDY, J.

VR.

To

1.The District Collector, Mahaboobnagar District.

2. The Mandal Revenue Officer, Kothur Mandal, Mahaboobnagar District.
3. The Member Secretary, A.P. Pollution Control Board,
Paryavaran Bhavan, A-3, Industrial Estate, Sanathnagar, Hyderabad- 500 018.
4. The Environmental Engineer, A.P. Pollution Control Board, Hyderabad.
5. The Commissioner of Industries, Department of Industries,
Chirag Ali Lane, Nampally, Hyderabad.
6. The IPO, Department of Industries,
Jadcherla, Mahaboobnagar District.
7. The Assistant Engineer (Operations), A.P.C.P.D.C.L. Kothur.
8. Two CCs to the Government Pleader for Revenue, High Court Buildings,
Hyderabad (OUT).

9. Two CD copies.